

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

KATHRYN BLACK,  
GENERAL CROOK,

Plaintiff,

vs.

MELVIN A. PALMER and  
WANDA PALMER,

Defendant,

2:10-cv-1681-GMN-RJJ

REPORT AND RECOMMENDATION  
OF UNITED STATES  
MAGISTRATE JUDGE

This matter was submitted to the undersigned Magistrate Judge on the failure of Plaintiff Kathryn Black to pay the filing fee and to file an amended complaint on or before December 15, 2010, pursuant to the Court's Order. *See*, Minutes of Proceedings (#13).

The Court having reviewed this matter makes the following findings,

1. On October 22, 2010, Plaintiff Kathryn Black filed an Application to Proceed *In Forma Pauperis* (#6).
2. At a hearing held on November 15, 2010, the Court denied Plaintiff Kathryn Black's Application to Proceed *In Forma Pauperis* (#6) and ordered her to pay the full filing fee on or before December 15, 2011. *See*, Minutes of Proceedings (#13).
3. Also at said hearing the Court ordered the Plaintiffs to file an amended complaint on or before December 15, 2010.

1           4.       Plaintiff Kathryn Black has not paid the filing fee and has not filed an amended  
2                       complaint.

3           Based on the foregoing and good cause appearing therefore,

4                               **RECOMMENDATION**

5           IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be  
6 **DISMISSED WITH PREJUDICE only as to Plaintiff Kathryn Black.**

7                               **NOTICE**

8           Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and  
9 Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14)  
10 days after service of this Notice. The Supreme Court has held that the courts of appeal may  
11 determine that an appeal has been waived due to the failure to file objections within the specified  
12 time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has  
13 also held that (1) failure to file objections within the specified time and (2) failure to properly  
14 address and brief the objectionable issues waives the right to appeal the District Court's order  
15 and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153  
16 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

17           DATED this 24th day of February, 2011.

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21                               ROBERT J. JOHNSTON  
22                               United States Magistrate Judge  
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